ZONING BOARD OF APPEALS

The hearing on Tuesday, May 7, 2024, is called to order by Chairman Kwiek at 7:00 pm.

Members present: John Jimenez
Greg Kalinowski
Shawn Pralow
Harry Kwiek
Jim Lembke

Also: Phyllis Todoro, Town Atty
Ray Balcerzak, Building Insp
Robert Schafer, Alternate

Absent: Ron Carey

Appeals Case #1454 for Tim Chrostowski of 7340 Seneca Street, Elma, NY who is requesting an area variance to install a new sign that is 2' x 10' and will be attached to the building §144-79 E 7 & 8, C-1.

Todd Huber and Tim Chrostowski were present to discuss the case. Mr. Huber stated that the North Star Tavern has been open for 5-8 years and during Covid the county gave out grants and the North Star Tavern was awarded a grant and thought a new sign would enhance the appearance, make it look like a place to dine.

The design is to stay close to the building. Mr. Jimenez asked how far off the building the sign would come out and Mr. Huber replied 2 feet. The other sign is being relocated to another side of the building. Mr. Jimenez asked if the sign would be on the east or the west side. Mr. Jimenez asked if it was an LED sign and he said yes. Mr. Kalinowski asked if any other alternatives were looked at and yes, there were, and this was the best image for the area.

Mr. Pralow asked about the 10-foot sign and the placement to the roof and Mr. Huber said it will only be a few feet more. Mr. Kalinowski asked what Mr. Huber was doing, his reply was that he was the contractor. Mr. Jimenez asked about the location of the star and the roof height. Mr. Jimenez asked about the position of the old sign, it will be on the side facing the parking lot.

No one spoke in favor or against.

Mr. Jimenez made motion to approve Appeals Case #1454 for Tim Chrostowski of 7340 Seneca Street, Elma, NY who is requesting an area variance to install a new sign that is 2' x 10' and will be attached to the building §144-79 E 7 & 8, C-1, based on the following criteria

1) An undesirable change would not be known.
2) The benefit could not be achieved another way.
3) The request is not substantial.
4) The request would not have an adverse physical or environmental effect.
5) The alleged difficulty is not self-created.

Seconded by Mr. Lembke Ayes-5. Nays-0.

Appeals Case # 1455 for Jeremy Calzone of 6870 Seneca Street, Elma, NY who is requesting an area variance to build a 20 x 24-foot garage greater than the allowable 250 sq ft and less than the required 10 feet side setback §144-86.2 D and §144-84 B2, C-2.

Jeremy Calzone was present. The septic system is in the front yard and there is no garage, there is a shed. The septic and leech field are in front. Jeremy pointed out where the septic is on the survey. Mr. Kalinowski had drawings and showed Mr. Calzone and asked if the garage was moved, it would be positioned with the right spot.

Until the shed is taken down, Jeremy would not know the exact distance the from the entrance that it would have to be changed. Mr. Kwiek mentioned that his property is an unusual shape. Mr. Pralow asked if there will be a concrete pad and there will be. The minimum is 6 feet from the property for the front and back.

Mr. Kalinowski asked if 5 feet would be enough of a distance and Jeremy stated he could make that work. Mr. Jimenez clarified that it would be staked out before anything is done and there is a fence on the property line. The shed will be removed.

No one spoke in favor or against.

Mr. Kalinowski made a motion to approve Appeals Case #1455 for Jeremy Calzone of 6870 Seneca Street, Elma, NY who is requesting an area variance to build a 20x24 foot garage greater than the allowable 250 sq ft and less than the required 10 feet side setback §144-86.2 D and §144-84 B2, C-2 and that it is not any less than a 5 foot setback and based on the following criteria:

1) An undesirable change would not be known.
2) The benefit could not be achieved another way.
3) The request is not substantial.
4) The request would not have an adverse physical or environmental effect.
5) The alleged difficulty is not self-created.

Seconded by Mr. Pralow Ayes-5. Nays-0.

Appeals Case #1456 for Pasquale Baranello of 200 South Ostrander Road, Elma, NY who is requesting a use variance to continue to operate a Federal Firearms License out of his home §144-58B, Residential C.

Attorney Peter Vasilion and Mr. Baranello were present to explain the case. Pasquale apologized for running the business since 1991 and not knowing he had to get a variance. When completing his application for the FFL, he checked residential, commercial and farming. Caliber shop 65% is ammo, 80 % is gun shows, and 25% out of house. Customers come in by appointment only.

Mr. Kwiek asked the type of license, and it is a 01. Mr. Kwiek stated a use variance is the hardest to get. The FFL requires approval from the town. Attorney Vasilion stated that the business has been there for 34 years and started at a time when there were no certain laws. Mr. Kwiek mentioned that information was not given with the application. Mr. Pralow asked if he was the sole proprietor. Attorney Vasilion stated he is the sole proprietor and if he stops the business do not go to anyone. Mr. Pralow asked when his license expires and was told it expired May 1, 2024.

Mr. Kalinowski asked if he did not change how he was filing would he have been here in front of the zoning board. The property is residential C and it never crossed his mind to go to the town and check on doing business. Mr. Baranello answered he would have. Mr. Kalinowski said he could not find his business online and Mr. Baranello answered he gives out cards at gun shows and by word of mouth. What is the financial hardship that his business would have.

Mr. Kwiek stated four categories that must be met. Mr. Jimenez asked for clarification on the percentage of what is being sold. With it being residential, the volume of people coming to the house. Attorney Todoro asked about the two signs on the property.

For the variance were:

Tim Howard	Retired Sheriff
Dale Keller	Neighbor 71 Cookman Rd
Mark Adrien	Attorney
Nathan Warnock	3001 Bowen Rd
Ron Warnock	
Andrew Warnock	341 Hilltop
Jason Markel	Elma Resident
Robert Chuckey	71 S Ostrander
Brian Push	931 Porterville

No one spoke against the variance.

Mr. Jimenez stated a balance sheet, and a profit and loss statement would be acceptable. Mr. Jimenez made a motion for a continuance. No one seconded.

Mr. Lembke made the motion for a conditional approval granted the financial reports are submitted in 10 days and should show the last 6 months of business for Appeals Case #1456 for Pasquale Baranello of 200 South Ostrander Road, Elma, NY who is requesting a use variance to continue to operate a Federal Firearms License out of his home §144-58B, Residential C and based on the following criteria:

1) An undesirable change would not be known.
2) The benefit could not be achieved another way.
3) The request is not substantial.
4) The request would not have an adverse physical or environmental effect.
5) The alleged difficulty is not self-created.

Seconded by Mr. Kalinowski Ayes-4. Nays-1 (Mr. Jimenez).

Appeals Case # 1457 for JML Florida Holdings of 7410 Seneca Street, Elma, NY who is requesting an area variance to build a garage that exceeds the allowable 3,000 sf §144-74, C-1/ Residential C.

Jodie Miller living in back, and the front parcel will be a garage unit.

Mr. Lembke asked what equipment would be stored in the building and it would be for all his properties. There will be a boat stored there. Mr. Kwiek asked the type of business equipment, and this is only for personal property. Mr. Kalinowski asked if 7410 Seneca St was broken off and they are waiting for an outcome from this meeting. Mr. Kalinowski said single-family residence with storage.

Mr. Lembke asked for clarification of the building, and it was explained. No employees, just family will use the building. Mr. Kalinowski asked if there is a second story to the building and there is not.

No one spoke in favor or against the variance.

Mr. Lembke made the motion to approve Appeals Case # 1457 for JML Florida Holdings of 7410 Seneca Street, Elma, NY who is requesting an area variance to build a garage that exceeds the allowable 3,000 sf §144-74, C-1/ Residential C, based on the following criteria:

1) An undesirable change would not be known.
2) The benefit could not be achieved another way.
3) The request is not substantial.
4) The request would not have an adverse physical or environmental effect.
5) The alleged difficulty is not self-created.

Seconded by Mr. Jimenez Ayes-5. Nays-0.

Appeals Case #1458 for Creative Land Development of 6020 Seneca Street, Elma, NY who is requesting an area variance to build a 13,104-sf building that is greater than the allowable 7,000 sf §144-84, §144-85 A & B, C2.

Bo Tucker was present and explained his case.

Mr. Kwiek asked where all the other buildings are currently at with retention ponds and three retention ponds must be completed. Attorney Todoro asked if Mr. Schenne has done the drainage descriptions and if a drainage district will be created.

Mr. Tucker explained how the ponds are stacked out and when the land dries it will be done. Mr. Jimenez asked about the land being cleared and part of the property is 6020 Seneca, and the other part is a parking lot.

Mr. Pralow asked if 6020 is a subgrade and where did the material come from. Mr. Tucker said he had a fill permit. Mr. Pralow asked who inspects the drainage and the reply was Mr. Schenne has the SWPP reports, and DEC gets them.

Mr. Jimenez asked if anything had changed and if there are only 6 spots to park. Mr. Tucker said the whole area is parking and the adjacent space for parking. It will be IT

tech in the building. Mr. Kalinowski asked if this is building number seven for the property on Seneca Street and the reply was that it is.

No one spoke in favor of the variance.

Against the variance was Mary McIntosh of 6100 Seneca Street.

Mr. Kalinowski made the motion to approve Appeals Case #1458 for Creative Land Development of 6020 Seneca Street, Elma, NY who is requesting an area variance to build a 13,104-sf building that is greater than the allowable 7,000 sf §144-84, §144-85 A & B, C2, based on the following criteria:

1) An undesirable change would not be known.
2) The benefit could not be achieved another way.
3) The request is not substantial.
4) The request would not have an adverse physical or environmental effect.
5) The alleged difficulty is not self-created.

Seconded by Mr. Lembke Ayes-5. Nays-0.

Motion to adjourn by Mr. Jiminez and seconded by Mr. Lembke. All in favor.

Respectfully submitted,

Kerry Galuski
Zoning Board Secretary